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May 25, 2018

CONFIDENTIAL
COMMUNICATION

VIA E-MAIL TO CELA@FEC.GOV

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Kathryn Ross, Paralegal
1050 First Street, N.E.
Washington, DC 20463

Re: Matters Under Review 7350 & 7351

Dear Office of Complaints Examination & Legal Administration:

On behalf of Donald J. Trump for President, Inc. and Treasurer Bradley T. Crate, enclosed is a response to the Complaints in the above-captioned MURs.

Very truly yours,



E. Stewart Crosland

Enclosure

cc: Megan Sowards Newton

BEFORE THE FEDERAL ELECTION COMMISSION

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MURs 7350/7351

RESPONSE OF DONALD J. TRUMP FOR PRESIDENT, INC. AND BRADLEY T. CRATE, AS TREASURER, TO THE COMPLAINTS

By and through undersigned counsel, Donald J. Trump for President, Inc. and Treasurer Bradley T. Crate (collectively, “the Campaign”) respond to the Complaints in the above-captioned Matters Under Review.

The Complaints falsely allege that the Campaign violated 11 C.F.R. § 110.20(i) through its vendor relationship with Cambridge Analytica LLC,¹ a Delaware-based limited liability company that under contract provided “technical and advisory services” relating to digital marketing, media buying, poll tracking, and data analytics from mid-June 2016 to Election Day 2016.² The Commission, however, has made clear that 11 C.F.R. § 110.20(i) does not proscribe the mere provision of paid services to a political committee. *See, e.g.*, Advisory Op. 2007-22 (Hurysz), at 4 (Dec. 3, 2007). Instead, it prohibits only “foreign national involvement in the management of any political committee, [or] its decisions regarding its receipts and disbursements in connection with Federal . . . elections.” Advisory Op. 2004-26 (Weller), at 3 (Aug. 20, 2004) (citing Explanation & Justification, *Contribution Limitations & Prohibitions; Final Rule*, 67 Fed. Reg. 69,928, 69,946 (Nov. 19, 2002)). No one (let alone any foreign national) from Cambridge Analytica had such authority for the Campaign’s key decisions, and

¹ This response collectively refers to Cambridge Analytica LLC and its corporate parent Cambridge Analytica LTD as “Cambridge Analytica.”

² The confused Complaint in MUR 7350 also contends that the Campaign violated 11 C.F.R. § 110.20(h), a regulation concerning secondary actors that recently had its validity cast in doubt by *FEC v. Swallow*, No. 2:15-cv-439-DB, slip op. at 10 (D. Utah Apr. 6, 2018). *See, e.g.*, Compl., MUR 7350, at ¶ 25. Because all of the spending at issue in this matter was done by the Campaign, a “substantial assistance” argument is inapposite.

the Complaints offer no credible support for their meritless allegations. The Commission thus should dismiss these matters and close the files. *See, e.g.*, First General Counsel’s Report, MUR 6959 (DNC & Cindy Nava), at 4–5 (Mar. 2, 2016) (dismissing as insufficient a complaint based on media reports alleging foreign national participation “in the DNC’s decision-making or management processes with respect to election-related activities”).

The Complaints primarily focus on recorded statements purportedly made by Cambridge Analytica’s former CEO Alexander Nix during a series of sales meetings with an undercover reporter posing as a Sri Lankan political consultant interested in retaining Cambridge Analytica. Compl., MUR 7350, at ¶¶ 16–18; Compl., MUR 7351, at ¶ 19. The recordings purport to show Mr. Nix bragging that Cambridge Analytica “did all the research, all the data, all the analytics, all the targeting, . . . ran all the digital campaign, the television campaign and [that its] data informed all the strategy” for the Campaign. *Id.*

This marketing pitch was caught on hidden camera and presented in splintered, spliced clips on Britain’s Channel 4 News and thus is inherently unreliable. Indeed, Cambridge Analytica has challenged “[t]he report [as] edited and scripted to grossly misrepresent the nature of those conversations and how the company conducts its business.” Press Release, Cambridge Analytica, *Cambridge Analytica responds to use of entrapment and mischaracterization by Channel 4 News* (Mar. 19, 2018).³

Regardless, none of what Mr. Nix purportedly said regarding the Campaign is true. Mr. Nix marketed Cambridge Analytica’s services to Campaign leadership prior to the contractual engagement, but he had no active role in Cambridge Analytica’s work for the Campaign.

³ <https://ca-commercial.com/news/cambridge-analytica-responds-use-entrapment-and-mischaracterization-channel-4-news>.

Furthermore, no one from Cambridge Analytica ran or had management authority over any aspect of the Campaign, especially not its digital efforts (Campaign digital director Brad Parscale did), and the Campaign did not rely on Cambridge Analytica data, personality modeling, or employees for the decisions it made. *See, e.g.,* Press Release, Cambridge Analytica, *The data we used on the 2016 US presidential campaign* (Mar. 29, 2018).⁴ Mr. Nix is well known as “a slick salesman promising phenomenal returns.” Sara Murray et al., *Inside the Trump campaign’s ties with Cambridge Analytica*, CNN (Mar. 21, 2018).⁵ His statements reflect nothing but an overblown sales pitch aimed at landing a new client from a foreign country whom Mr. Nix likely believed never could fact-check his disingenuous assertions. Unfounded puffery does not justify a wasteful investigation.⁶

The Complaints also speculate that certain Cambridge Analytica personnel embedded with the Campaign as support staff – a team of data scientists and digital advertisers – may have violated 11 C.F.R. § 110.20(i). They point to media reports describing activities allegedly taken by Cambridge Analytica during the *2014 midterm elections*, and then jump to the conclusion that the same must have been true in 2016. *See* Compl., MUR 7351, at ¶¶ 27–31.⁷ Accounts of prior activity have no relevance to the Campaign, and such “[p]urely speculative charges . . . do not

⁴ <https://ca-commercial.com/news/data-we-used-2016-us-presidential-campaign>.

⁵ <https://www.cnn.com/2018/03/21/politics/trump-campaign-cambridge-analytica/index.html>.

⁶ The Complaints also point to comments purportedly made by Cambridge Analytica’s former Managing Director Mark Turnbull in the Channel 4 News piece. *See* Compl., MUR 7350, at ¶¶ 20–21. Mr. Turnbull’s purported statements have no bearing on the Campaign. He took credit for Cambridge Analytica creating a digital marketing campaign titled “Defeat Crooked Hillary,” *id.*, which was not a Campaign project, but instead allegedly done by an independent-expenditure group, *see* Compl., MUR 7351, at ¶ 21.

⁷ MUR 7350’s error-filled Complaint further alleges that a former Cambridge Analytica contractor named Christopher Wylie, a Canadian citizen, “aided and assisted the Trump campaign in violation of 52 U.S.C. § 30121 and 11 C.F.R. [§] 110.20.” Compl., MUR 7350, at ¶ 28. Mr. Wylie had no role in the Campaign, and indeed he purportedly left Cambridge Analytica in July 2014 – almost a year before the Campaign came into existence. *See* Press Release, Cambridge Analytica, *Cambridge Analytica responds to committee hearing* (Mar. 27, 2018), <https://ca-political.com/news/cambridge-analytica-responds-committee-hearing>.

form the adequate basis to find reason to believe that a violation of [law] has occurred.” *See, e.g.,* First General Counsel’s Report, MUR 5467 (Michael Moore), at 5 (July 23, 2004) (citation and internal quotation marks omitted).

The Cambridge Analytica support team consisted of mere functionaries. Their activities for the Campaign were akin to those approved in Advisory Opinion 2014-20 (Make Your Laws PAC, Inc.) (Dec. 5, 2014) – which found no legal issue with foreign nationals working with political committees to create websites, logos, or other intellectual property for a campaign – and were much further removed from management and spending decisions than other activities previously blessed by the Commission, *see, e.g.,* Advisory Op. 2004-26, at 3 (concluding that a foreign national fiancé of a candidate could attend committee meetings and events, speak or solicit funds at committee events, and participate in committee meetings regarding events or political strategy). Cambridge Analytica’s assigned project leaders, Matt Oczkowski (Head of Product) and Laura Hilger (Head of Research), both U.S. citizens, oversaw the team’s work. Mr. Oczkowski and Ms. Hilger, moreover, reported directly to Brad Parscale and others in Campaign leadership who remained “*solely responsible for all decisions and final determinations regarding . . . budgeting (expenditures)*” under the express terms of the Campaign’s contract with Cambridge Analytica.

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The Complaints simply allege no facts showing a violation of 11 C.F.R. § 110.20(i), or any other provision of the law, and the Commission should dismiss these baseless allegations.